

MDR Tracking Number: M5-04-1535-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-29-02.

Per correspondence from the requestor dated 3/29/04, the requestor received additional payment from the carrier for dates of service 5/2/02 through 5/16/02 and 5/23/02 through 5/28/02. Therefore, these dates of service will not be considered in this Amended Decision and Order.

This Amended Decision and Order supersedes all previous decisions rendered in this medical dispute involving the above requestor and respondent.

The Medical Review Division Decision of 6-10-03 was withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 1-26-04. A copy of the Notice of Withdrawal is reflected in the Commission Case file. An Order was issued in favor of the requestor.

The requestor appealed the Order to the Chief Clerk of Proceedings. At the hearing on the merits before SOAH, both the Petitioner (requestor) and the Carrier (respondent) agreed that the basis for the Medical Review Divisions' decision was wrong. The Administrative Law Judge found that the Medical Review Division failed to consider the medical necessity of the involved services and remanded the case to the Medical Review Division for review under the medical necessity standard, thereby resulting in this issuance of the Notice to Withdraw.

The IRO reviewed office visits, electrical stimulation, ultrasound, therapeutic activities, medical services, massage therapy, and mechanical traction rendered from 05-20-02 through 6-24-02 that were denied based upon "T".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for office visits, electrical stimulation, ultrasound, therapeutic activities, medical services, massage therapy, and mechanical traction. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, electrical stimulation, ultrasound, therapeutic activities, medical services, massage therapy, and mechanical traction rendered from 05-20-02 through 6-24-02 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

This Findings and Decision is hereby issued this 30th day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service through in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 30th day of June 2004.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division
DRM/rlc

March 15, 2004

MDR Tracking #: M5-04-1535-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on the job in an auto accident on ___. The sports utility vehicle in which she was riding was clipped from behind, causing her vehicle to roll several times. She was transported to the hospital emergency room by ambulance following this accident. ___ sought care from ___ eight weeks following the accident because of continued pain and discomfort in her cervical spine and left shoulder. ___ first examined ___ on 04/22/02. He diagnosed her with having a cervicobrachial syndrome, two compression fractures at the fifth and sixth vertebra and a traumatic arthropathy of the left shoulder.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, electrical stimulation, ultrasound, therapeutic activities, medical services, massage therapy and mechanical traction.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

___ treatment plan for ___ was under nine weeks and after careful review of the submitted documentation regarding the care rendered by ___ the reviewer finds that the case was well within the TCA Guidelines for Quality Assurance and Practice Parameters. It is also noted that this patient purposely waited and postponed seeking care for her injuries in order not to cause understaffing/hardship on her employer while her fellow worker was off work due to the results of this auto accident. While ___ delay in seeking care reveals a high work ethic, it may have slowed her recovery time.

With this type of injury, ___ will likely experience flare-ups in cervical pain and will most likely require short term chiropractic care. ___ examined her on 09/24/02 for a required medical exam ordered by TWCC. At this exam, she reported to ___ that the therapy rendered by ___ helped a lot in resolving her pain. The reviewer finds that based on the documentation provided, ___ care promoted recovery and relieved the effects resulting from the compensable injury and enhanced her ability to retain employment.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,